

PERMIT

The Department of Energy, Richland Operations Office (DOE-RL), acting as the federal agency with jurisdiction over the Hanford Site, hereby grants to the United States Fish and Wildlife Service (FWS) a use permit (Permit) for that area of the Hanford Site formally known as the FitznerEberhardt Arid Lands Ecology Reserve (ALE). The ALE encompasses an area of approximately 120 square miles lying within the County of Benton, State of Washington, and is more particularly . described as:

TOWNSHIP 13 NORTH, RANGE 24 EAST, W.M., BENTON COUNTY, WASHINGTON:

SECTION 35; THAT PORTION LYING SOUTHERLY OF STATE HIGHWAY NO. 24

SECTION 36; THAT PORTION LYING SOUTHERLY OF STATE HIGHWAY NO. 24.

TOWNSHIP 12 NORTH, RANGE 24 EAST, W.M., BENTON COUNTY, WASHINGTON:

SECTIONS 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35 AND 36

TOWNSHIP 11 NORTH, RANGE 24 EAST, W.M., BENTON COUNTY, WASHINGTON:

SECTIONS 1, 2, 11, 12 AND 13

. SECTION 14; THE EAST HALF

SECTION 24; THE NORTH HALF OF THE NORTHWEST QUARTER; THE SOUTHEAST

QUARTER OF THE NORTHWEST QUARTER; THE NORTHEAST

QUARTER; THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER

TOWNSHIP 13 NORTH, RANGE 25 EAST, W.M., BENTON COUNTY, WASHINGTON

SECTION 31; THAT PORTION LYING SOUTHERLY OF STATE HIGHWAY NO. 24 AND
WESTERLY OF STATE HIGHWAY NO. 240

SECTION 32; THAT PORTION LYING SOUTHERLY OF STATE HIGHWAY NO. 24 AND
SOUTHWESTERLY OF STATE HIGHWAY NO. 240

TOWNSHIP 12 NORTH, RANGE 25 EAST, W.M., BENTON COUNTY, WASHINGTON

SECTION 4; THAT PORTION LYING WESTERLY OF STATE HIGHWAY NO. 240

SECTION 5; THAT PORTION LYING WESTERLY OF STATE HIGHWAY NO. 240

SECTIONS 6, 7 AND 8

SECTION 9; THAT PORTION LYING WESTERLY OF STATE HIGHWAY NO. 240

SECTION 15; THAT PORTION LYING WESTERLY OF STATE HIGHWAY NO. 240

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Contract No. 8006-96PR13426.000

SECTION 16; THAT PORTION LYING WESTERLY OF STATE HIGHWAY NO. 240
SECTIONS 17, 18, 19, 20 AND 21 SECTION 22; THAT PORTION LYING WESTERLY OF
STATE HIGHWAY NO. 240 SECTION 23; THAT PORTION LYING SOUTHERLY OF STATE
HIGHWAY NO. 240 SECTION 24; THAT PORTION LYING SOUTHERLY OF STATE
HIGHWAY NO. 240 SECTION 25; THAT PORTION LYING SOUTHERLY OF STATE
HIGHWAY NO. 240 SECTION 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 AND 36

TOWNSHIP 11 NORTH, RANGE 25 EAST, W. M., BENTON COUNTY, WASHINGTON

SECTIONS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 AND 18 SECTION 19; EXCEPT THE
SOUTHWEST QUARTER OF THE SOUTHEASTERLY QUARTER (GOVERNMENT LOT 4)
SECTION 20 SECTION 21; EXCEPT THE SOUTH HALF OF THE SOUTH HALF SECTION 22;
EXCEPT THE SOUTH HALF OF THE SOUTH HALF SECTION 23; EXCEPT THE SOUTH HALF
OF THE SOUTH HALF SECTION 24 SECTION 25; EXCEPT THE SOUTHWEST QUARTER
AND EXCEPT THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER

TOWNSHIP 12 NORTH, RANGE 26 EAST, W.M., BENTON COUNTY, WASHINGTON

SECTION 29; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240
SECTION 30; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240
SECTION 31

SECTION 32; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240
SECTION.33; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240

TOWNSHIP 11 NORTH, RANGE 26 EAST, W.M., BENTON COUNTY, WASHINGTON

SECTION 2; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240
SECTION 3; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240
SECTION 4; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240
SECTIONS 5, 6, 7, 8, 9 AND 10
SECTION 11; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240

SECTION 12; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240

SECTION 13; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240

Contract No. 8006-96PR13426.000

SECTIONS 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31; EXCEPT THE SOUTH HALF OF THE NORTHWEST QUARTER; EXCEPT THE SOUTHWEST QUARTER; EXCEPT THE WEST HALF OF THE SOUTHEAST QUARTER
SECTIONS 32, 33, 34, 35 AND 36

TOWNSHIP 10 NORTH, RANGE 26 EAST, W.M., BENTON COUNTY, WASHINGTON

SECTIONS 1, 2, 3 AND 4

SECTION 5; EXCEPT THE SOUTH HALF OF THE NORTHWEST QUARTER; EXCEPT THE SOUTHWEST QUARTER; EXCEPT THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER.

SECTION 10; THE NORTH HALF; THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER
SECTION 11; THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER

SECTION 12; THE EAST HALF OF THE NORTHEAST QUARTER

TOWNSHIP 11 NORTH, RANGE 27 EAST, W.M., BENTON COUNTY, WASHINGTON

SECTION 18; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO.240

SECTION 19; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO.240

SECTION 20; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO.240

SECTION 28; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO.240

SECTION 29; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO.240

SECTIONS 30, 31 AND 32

SECTION 33; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240

TOWNSHIP 10 NORTH, RANGE 27 EAST, W.M., BENTON COUNTY, WASHINGTON

SECTION 3; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240 AND NORTHERLY OF STATE HIGHWAY NO. 225

SECTION 4; THAT PORTION LYING SOUTHWESTERLY OF STATE HIGHWAY NO. 240 AND NORTHERLY OF STATE HIGHWAY NO. 225

SECTION 5 AND 6

SECTION 7; THE NORTH HALF

SECTION 8; THAT PORTION OF THE NORTH HALF LYING WESTERLY OF STATE HIGHWAY NO. 225.

SECTION 9; THAT PORTION LYING WESTERLY OF STATE HIGHWAY NO. 225

1. USE OF THE PROPERTY: FWS' use of the property shall be for the purpose of operating the ALE as a Research Natural Area. It is the understanding of both DOE-RL and FWS (the Parties) that DOE-RL requires that the use of the property must be consistent with DOE-RL's continuing need for the ALE to function as a safety and security buffer for DOE-RL's ongoing

activities involving the management of nuclear waste and materials on the remainder of the Hanford Site. The parties believe this use can be achieved in a manner consistent with the objectives of the Memorandum of Understanding (MOM between the parties (Attachment 1 of this Permit). To ensure that this requirement is met FWS agrees to manage the ALE
consistent with the existing Arid Lands Ecology (ALE) Facility Management Plan (PNL8506/UC-702) dated February 1993, prepared by Pacific Northwest National Laboratory and approved by DOE-RL. Future management of the ALE will be in accordance with a comprehensive management plan prepared by FWS which shall be subject to approval by DOE-RL, and when so approved shall supersede PNL-8506/UC-702.

2. ACCESS: FWS is hereby granted the right, and assumes the responsibility, of controlling access to the ALE for all parties except for those employees, contractors or subcontractors of DOE-RL or others entering under authority of DOE-RL for DOE-RL approved purposes, or entering under independent authority. FWS shall provide for appropriate access to the ALE as described in the accompanying MOU and in the comprehensive management plan to be developed by FWS. DOE-RL and FWS shall coordinate access activities to ensure that each is informed of ongoing activities and to minimize potential conflicts.
3. TERM AND TERMINATION: It is the intent of the Parties that this Permit shall remain in effect for a period of twenty-five (25) years unless terminated earlier as provided herein. Prior to the expiration of this period DOE-RL shall reassess its continued need to maintain jurisdiction of the ALE as a safety and security buffer for ongoing operations. If DOE-RL determines that it has a continuing need to retain jurisdiction, the Parties agree that this Permit may be extended by mutual agreement for an additional term not to exceed twenty-five (25) years.

This Permit shall become effective and the term thereof shall commence upon the latter date of signature of the Permit.

This Permit may be terminated by DOE-RL for cause if FWS fails to abide by the terms of the Permit or the accompanying five-year renewable MOU. In particular the Permit may be subject to termination if FWS fails to operate and manage the ALE so as to preserve its character as a Research Natural Area and as a safety and security buffer for DOE-RL operations.

The Permit may be terminated by FWS for cause if DOE-RL fails to *abide by* the terms and conditions of the Permit or of the accompanying MOU.

In the event of a termination for cause the Party declaring termination shall give the other Party notice of the grounds for termination at the earliest practicable opportunity after such cause is identified. The notified Party shall thereafter have 180 days to attempt to remedy the identified issue. If a cure is not effected the termination shall be effective immediately.

Following a termination for cause FWS shall have 90 days to remove any assets, installed by FWS or its representatives, from the ALE that it can reasonably remove. The method of removal of structures, whether real or personal property, is subject to DOE-RL approval which will not be unreasonably withheld.

In the event that DOE-RL's requirements necessitate exclusive possession of the ALE, DOE-RL, in accordance with DOE Order 4300.1C, Real Property Management, may terminate this Permit, in whole or in part, by giving written notice 30 days prior to the termination date. In the event of change in mission at the Hanford Site which might require exclusive possession, DOE-RL shall endeavor to provide notice of the anticipated change to FWS at the earliest practicable point. Following a termination by DOE-RL under this authority FWS shall have 180 days to remove any assets from the ALE. FWS may, for any reason, terminate this Permit in whole or in part by giving written notice 180 days prior to the termination date. If FWS terminates the Permit under this authority, FWS shall remove any assets from the ALE by the effective date of the termination. The method of removal of structures, whether real or personal property, is subject to DOE-RL approval which will not be unreasonably withheld.

4. ENVIRONMENTAL RESPONSIBILITIES: DOE-RL expressly recognizes that it shall maintain exclusive federal responsibility for all costs associated with any investigation of site conditions and any cleanup, removal, or remedial action or other compliance, closure, maintenance, restoration, or cleanup related activity required by federal, state or local laws or regulations which arise as a result of hazardous substances (Hazardous substances, for the purposes of this Permit shall include, but not be limited to, any hazardous or toxic substance, material or waste which is (1) petroleum or petroleum derivative; (2) asbestos; (3) polychlorinated biphenyls (PCB); (4) designated as "Dangerous Waste" or "Extremely Hazardous Waste" by the State of Washington under authority of the Hazardous Waste Disposal Act, RCW Chap. 70-10, and associated regulations, WAC Chap. 173-303; (5) designated as "Hazardous Substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC Sections 9601, et seq.; (6) designated as "Hazardous Waste" pursuant to the Resource Conservation and Recovery Act (RCRA), 42 USC Sections 6901, et seq.; (7) designated as a "Hazardous Substance" under the Clean Water Act, 33 USC § 1321, or listed pursuant to 33 USC § 1317; (8) listed by the U.S. Department of Transportation at 49 CFR 172.101 or the U.S. Environmental Protection Agency at 40 CFR Part 302; (9) is subject to corrective action requirements pursuant to Section 3003 of RCRA; and (10) any other substance, waste or material which is regulated as hazardous, dangerous or solid waste by any federal, state or local agency.) existing on the ALE, or anywhere on the Hanford site, on the effective date of the Permit or otherwise resulting from DOE activities. DOE acknowledges that it shall have exclusive responsibility for such pre-existing contamination. FWS expressly recognizes that it shall be responsible for its appropriate share of costs associated with any removal or remedial action required by applicable federal, state or

local laws or regulations which arise as a result of FWS's operations on the ALE or as a result of the actions of others present on the ALE under authority of FWS, except for those parties identified in Attachments 2 and 3 of this Permit.

5. DAMAGE TO PROPERTY: Any property owned or under the jurisdiction of one agency that is damaged or destroyed as a result of the negligence and/or willful misconduct of the other agency or its authorized representatives, directly attributable to the ALE operations and not otherwise attributable to any preexisting conditions shall be promptly repaired or replaced by that agency to the reasonable satisfaction of the agency whose property was damaged.
6. NOTIFICATIONS: DOE-RL and FWS shall each undertake to notify the other as soon as reasonably possible of the discovery of any hazardous, toxic or radioactive substances, including wastes, or other materials of concern, or regarding any threatened release of the same on or near the ALE.
To insure that DOE is in compliance with requirements stated in the Hanford Resource Conservation and Recovery Act Permit, Chapter I §E.1, upon its discovery FWS shall, as soon as practical, report to DOE the release of any dangerous waste or hazardous substances occurring on the ALE. This immediate verbal report shall contain the following information, if known:
 - a. Name, address, and telephone number of the point of contact for the Permittee;
 - b. Location at which the release occurs;
 - c. Name and quantity of material(s) involved;
 - d. The extent of injuries, if any;
 - e. An assessment of actual or potential hazard to the environment and human health, where this is applicable;
 - f. Estimated quantity of released material that resulted from the incident; and,
 - g. Actions which have been undertaken to mitigate the occurrence.

7. PERMITS AND LICENSES: FWS will abide by all federal, state and local laws and regulations applicable to the occupancy and operation of the permitted facility. FWS will ensure that all operations conducted by it or by those present under FWS authority on the permitted facilities are protective of the environment, associated natural and cultural resources, and of human health and safety. At the request of DOE-RL, FWS will produce any required licenses, permits, certifications or authorizations as evidence of compliance with this paragraph.
8. APPROVAL OF MANAGEMENT PLANS: DOE-RL expressly reserves the right of approval over any management plan or policy developed by FWS regarding the management of the ALE. FWS agrees to involve DOE-RL early in the development of all plans and policies specific to the ALE. No management plan or policy, nor any change to approved plans or policies, shall be effective until DOE-RL has issued written approval. Such approval shall not be unreasonably withheld. Present and future uses of the ALE under this Permit shall be consistent with the DOE-RL approved management plan.
9. REASSIGNMENT: Neither this Permit nor any interest therein nor claim thereunder may be assigned nor transferred by FWS except as expressly authorized in writing by DOE.
10. DOE-RL'S RESERVATION OF RIGHT: In addition to all other rights and interests reserved by DOE-RL, DOE-RL expressly reserves the right to use the ALE as a location for potential habitat mitigation activities to compensate for habitat losses which have occurred or which may occur as a result of DOE-RL's activities in other areas on the Hanford Site. DOE-RL shall consult with FWS regarding proposed activities in exercise of this right and obtain approval from appropriate authorities. This reservation of right shall not be construed as prior agreement by the FWS in its role as a natural resource trustee to any specific mitigation activities. The specific enumeration of this reservation of right may not be read as in any way limiting other rights and interests reserved by DOE-RL and not specifically referred to in this Permit.
11. COVENANT AGAINST CONTINGENT FEES: FWS warrants that no person or selling agency has been employed or retained to solicit or secure this Permit upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by FWS for the purpose of securing business.
12. OFFICIALS NOT TO BENEFIT: No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this Permit, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Permit if made with a corporation for its general benefit.

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13. AGREEMENT BY FWS AND DOE: By affixing the signature of their authorized representative at the location indicated below, the parties hereby agree to the terms and conditions of the Permit and the attached MOU (Attachment 1).
14. HEADINGS: The headings in this Permit are for the purposes of reference and convenience. only and shall not limit or otherwise define the meaning thereof.
15. ATTACHMENTS: The following attachments (Attachments 1,2,3,4 and 5) are a part of this Permit and they are of equal authority as provisions in the body of the Permit. In the event that the attached MOU (Attachment 1) is terminated or is not renewed during the length of the Permit, only procedural aspects of the MOU should be considered terminated. The purposes, objectives, and substantive provisions of the MOU shall remain in effect.
16. FUNDING: Any requirement for the payment or obligation of funds by FWS and/or DOE-RL established by the terms of this Permit shall be subject to the availability of appropriated funds.

IN WITNESS WHEREOF, the United States of America, acting by and through the United States Department of Energy; has caused this Permit to be executed by its duly authorized representative on the day of, 1997.

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY

AGREED:APPROVED AND AGREED:

U.S. FISH AND WILDLIFE SERVICE

U.S. FISH AND WILDLIFE SERVICE

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U.S. FISH AND WILDLIFE SERVICE
AND
THE U.S. DEPARTMENT OF ENERGY, RICHLAND OPERATIONS OFFICE
' FOR
THE OPERATION OF THE FITZNER-EBERHARDT ARID LANDS ECOLOGY
RESERVE AT THE HANFORD SITE

WHEREAS, the U.S. Department of Energy, Headquarters (DOE-HQ), and the U.S. Department of Energy, Richland Operations Office, (DOE-RL), have engaged in an extensive review process, with a full range of public involvement, regarding how best to fulfill DOE's responsibility as the steward of the nationally significant resources which are present on the part of the Hanford Site designated as the Fitzner-Eberhardt. Arid Lands Ecology Reserve (ALE). As a result of this process, the Secretary of Energy determined that DOE's responsibility could be best fulfilled by retaining jurisdiction of the ALE, which will allow . DOE-RL to retain ultimate responsibility for the resources and to ensure that the area continues to function as a safety and security buffer for DOE-RL's continuing operations on the Hanford Site. However, it was also determined that the resources could best be managed by an agency with particular expertise in the field of ecosystem protection and management. To this end, and reflective of the majority of views expressed in the public process, DOE-RL has entered into an agreement with the United States Fish and Wildlife Service (FWS), under which FWS will assume the management of the ALE. The terms of this agreement are set forth in the renewable land use Permit (Contract No. 8006-96PR13426.000) from DOE-RL to FWS, with a term of 25 years, and this Memorandum of Understanding (MOU).

WHEREAS, the mission of the FWS is to conserve, protect, and enhance fish and wildlife and their habitats for the continuing benefit of the American people; the mission of the National Wildlife Refuge System (NWR) is to preserve a national network of lands and waters for the conservation and management of fish, wildlife, and plant resources of the United States for the benefit of present and future generations; management of land as a NWR will preserve the character of a Research Natural Area; and the Secretary of the Interior is authorized to provide assistance to, and cooperate with, Federal, State; and public or private agencies and organizations to fulfill these missions.

WHEREAS, FWS has also determined that the conservation and continued protection of the nationally significant resource values of the ALE will further the mission of the FWS.

WHEREAS, DOE-RL and FWS acknowledge and recognize that the ALE, including Rattlesnake Mountain (known as La'Leek to Native Americans of the region), is eligible for listing on the National Register of Historic Places as a Traditional Cultural Property and is of particular importance to Native Americans.

WHEREAS, the continued protection of the physical integrity of Native American sacred sites and the access to and ceremonial use of these sites by practitioners of Native American religions shall be a priority to be addressed in any management plan.

THEREFORE, DOE-RL and FWS agree as follows:

1.0 DEFINITIONS:

- 1.1 The term "ALE" means the 77,000 acre portion of the Hanford Site lying generally southwest and south, respectively, of Washington State Highways 240 and 24, more particularly described in the land use Permit, and designated as the Fitzner-Eberhardt Arid Lands Ecology Reserve.
- 1.2 The term "Government" means the United States of America or any agency thereof.
- 1.3 The term "DOE and/or DOE-RL" means the United States Department of Energy or any duly authorized representative thereof, including without limitation, the Manager of the Department of Energy, Richland Operations Office.
- 1.4 The term "DOE Contractor" refers to the various prime contractors at the Hanford Site, identified in Attachment 2 of the Permit, which are delegated responsibility by DOE-RL for certain aspects of operations that may be on, or may affect, the ALE. DOE-RL may amend the list of contractors found in Attachment 2 of the Permit and the amended list will become effective after DOE-RL notifies FWS of these amendments in a manner consistent with the ALE Facilities Management Plan.
- 1.5 The term "FWS" means the United States Fish and Wildlife Service or any duly authorized representative thereof.
- 1.6 The term "Permit" refers to Contract No. 8006-96PR13426.000.
- 1.7 The term "Hanford Site" is that area of Federally owned land that lies within the semiarid Pasco Basin of the Columbia Plateau in southeastern Washington State, which is managed by the DOE-RL. The site occupies an area of approximately 560 square miles located north of the city of Richland and the confluence of the Yakima River with the Columbia River. The Hanford Site extends approximately 48 miles north to south and 38 miles east to west.

2.0 AUTHORITIES: DOE-RL enters into this agreement pursuant to the authority of the Economy Act, as amended (31 U.S.C. §1535); the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011-2259); the Energy Reorganization Act of 1974 (P.L. 93438); the Department of Energy Organization Act (P.L. 95-91); Executive Order 12512; and other applicable authorities. FWS enters into this agreement pursuant to the authority of Sections 1 and 4 of the Fish and Wildlife Coordination Act, 16 U.S.C. Sections 661 and 664; the National Wildlife Refuge System Administration Act of 1966, 16 U.S.C. §§668dd-668ee as amended; and Section 7 of the Fish and Wildlife Act of 1956, 16.U.S.C. Section 742 f(a)(4); and other applicable authorities.

3.0 OBJECTIVES:

- 3.1 The primary objective of DOE-RL in entering into this agreement is to ensure the ALE is managed as a safety and security buffer for DOE-RL's ongoing missions on the Hanford Site.
- 3.2 The primary objective of the FWS is to ensure that the ALE is operated and managed for the protection and preservation of the native shrub-steppe habitat and its associated wildlife species.
- 3.3 Other objectives of importance to both DOE-RL and FWS are:
 - to ensure that the integrity of the ALE as an intact resource is maintained;
 - to ensure that the ALE is managed as a 'resource to be utilized by Native American peoples for religious and cultural purposes consistent with the foregoing objectives; and
 - to ensure that access to the ALE is available for the educational, scientific, and recreational benefit of the public to the extent this access and use is consistent with the foregoing objectives.

4.0 FWS RESPONSIBILITIES:

- 4.1 MANAGEMENT PLANNING - FWS will prepare a comprehensive management plan to govern management activities on the ALE. This plan will be developed with the involvement of the public, local governments, other affected agencies and affected Native American Tribes. FWS will attempt to have a draft plan developed within 36 months of the signing of this MOU. The plan will be subject to timely review and approval by DOE-RL prior to implementation. Until the FWS plan is implemented, FWS will manage the ALE consistent with

- 2.0 AUTHORITIES: DOE-RL enters into this agreement pursuant to the authority of the Economy Act, as amended (31 U. S. C. § 1535); the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011-2259); the Energy Reorganization Act of 1974 (P.L. 93438); the Department of Energy Organization Act (P.L. 95-91); Executive Order 12512; and other applicable authorities.

FWS enters into this agreement pursuant to the authority of Sections 1 and 4 of the Fish and Wildlife Coordination Act, 16 U. S. C. Sections 661 and 664; the National Wildlife Refuge System Administration Act of 1966, 16 U.S.C. §§668dd-668ee as amended; and Section 7 of the Fish and Wildlife Act of 1956, 16 U. S. C. Section 742 f(a)(4); and other applicable authorities.

3.0 OBJECTIVES:

- 3.1 The primary objective of DOE-RL in entering into this agreement is to ensure the ALE is managed as a safety and security buffer for DOE-RL's ongoing missions on the Hanford Site.

- 3.2 The primary objective of the FWS is to ensure that the ALE is operated and managed for the protection and preservation of the native shrub-steppe habitat and its associated wildlife species.

- 3.3 Other objectives of importance to both DOE-RL and FWS are:

- to ensure that the integrity of the ALE as an intact resource is maintained;
- to ensure that the ALE is managed as a resource to be utilized by Native American peoples for religious and cultural purposes consistent with the foregoing objectives; and
- to ensure that access to the ALE is available for the educational, scientific, and recreational benefit of the public to the extent this access and use is consistent with the foregoing objectives.

4.0 FWS RESPONSIBILITIES:

- 4.1 MANAGEMENT PLANNING - FWS will prepare a comprehensive management plan to govern management activities on the ALE. This plan will be developed with the involvement of the public, local governments, other affected agencies and affected Native American Tribes. FWS will attempt to have a draft plan developed within 36 months of the signing of this MOU. The plan will be subject to timely review and approval by DOE-RL prior to implementation. Until the FWS plan is implemented, FWS will manage the ALE consistent with

- the Permit, this MOU and the existing ALE Facility Management Plan (PNL8506/UC-702, dated February 1993).
- 4.2 ACCESS - FWS shall have responsibility for controlling access to ALE except for those entering under authority of DOE-RL or under independent authority. A list of current programs and continuing uses and those currently identified as having independent authority is provided as Attachment 3 of the Permit.
- 4.2.a FWS shall determine, in accordance with the terms of this agreement and with the management plan, the terms and conditions for access to the ALE except for those entering under authority of DOE-RL, or under independent authority.
- 4.2.a.1 FWS shall ensure that those entering the ALE under FWS authority are informed of appropriate procedures as required under the emergency preparedness planning documents.
- 4.2.a.2 FWS shall ensure that those entering the ALE under FWS authority have the necessary equipment to allow for immediate notification in case of emergency situations.
- 4.2.b The DOE-RL imposed "no trespassing" designation of the ALE shall remain in effect. FWS shall be responsible for maintaining appropriate postings on the ALE.
- 4.2.c FWS will consult with appropriate DOE-RL points of contact (POC), as identified in Attachment 4 of the Permit, regarding access and physical security policies and with DOE-RL POC regarding access control and protective measures related to emergency preparedness.
- 4.3 FWS will be responsible for coordination of the law enforcement, fire protection, emergency preparedness, and emergency medical services programs and general maintenance and administration for the ALE. FWS will coordinate with the appropriate DOE-RL POC as identified in Attachment 4 of the Permit, for fire protection and emergency preparedness issues and maintenance and administrative issues of the ALE.
- 4.4 FWS shall be responsible for notifying DOE-RL of the discovery of any hazardous (or dangerous), toxic or radioactive wastes or other substances of concern, or of the release or threatened release of such substances on the ALE as soon as reasonably possible following discovery. Appropriate DOE-RL POC's are identified in Attachment 4 of the Permit.

- 4.5 FWS shall notify DOE-RL of any accident, injuries, fires, material releases, thefts or similar events as soon as reasonably possible following discovery. Appropriate DOE-RL POC's are identified in Attachment 4 of the Permit.
- 4.6 FWS is responsible for identifying, through a public involvement process, additional operational programs and scientific and educational uses that are consistent with the ALE Facility Management Plan and that can be funded and operated through formal partnerships with cooperating agencies, organizations, tribes, and individuals.
- 4.7 FWS and its authorized representatives are responsible for assuring that the design, siting, construction, operation, maintenance and repair of any new facilities approved for use in operation of the ALE, other than those authorized separately by, DOE-RL, meet all cultural, environmental, health and safety criteria under applicable laws and regulations.
- 4.8 FWS and its authorized representatives are responsible for identification to DOER. of the on-site buildings and facilities FWS needs for continuing use on the ALE. Such facilities will be identified as soon as possible after signing of this agreement, but no later than the date when the FWS management plan for the ALE is approved.
- 4.9 FWS and its authorized representatives are responsible for compliance with all applicable laws of the United States and the State of Washington for activities at the ALE performed by FWS or its authorized representatives after implementation of this agreement.
- 4.10 Unless terminated, or otherwise agreed to, by DOE-RL prior to the anticipated twenty five (25) year term of the Permit, the FWS and its authorized representatives are responsible, upon termination or expiration of the Permit, for funding the ultimate disposition of any FWS facilities constructed during the effective term of this agreement, including performing and documenting the environmental analysis of such disposition as required by the National Environmental Policy Act and any other applicable statutory requirements. FWS's proposed methods of disposition of constructed facilities on the ALE are subject to DOE-RL's approval.
- 4.11 FWS and its authorized representatives are responsible for providing the following services to DOE-RL on a cost reimbursable basis:
 - 4.11.1 Planning and implementation of habitat restoration projects which may be authorized on the ALE as mitigation for unavoidable adverse environmental impacts of DOE-RL and DOE-RL contractor actions elsewhere on the Hanford Site.

- 4.11.2 Review of, and consultation concerning, environmental impacts of proposed DOE-RL or DOE-RL contractor actions on the Hanford Site outside the ALE, as requested.
 - 4.12 FWS will seek to enter into a Memorandum of Agreement with the Yakama Indian Nation, Confederated Tribes of the Umatilla Indian Reservation, Nez Perce Tribe and the Wanapum regarding access for traditional, cultural and religious activities.
- 5.0 DOE-RL RESPONSIBILITIES:
- 5.1 DOE-RL is responsible for Payment in Lieu of Taxes for the ALE lands.
 - 5.2 DOE-RL is responsible for the administration of all third party rights and uses, including easements, licenses and permits granted by DOE-RL to third parties for activities that are ongoing on the ALE lands as identified in Attachment 3. This responsibility includes administrative controls, access and infrastructure maintenance to support the third party activities. DOE-RL shall ensure that respective uses and users will be in conformance with ALE use standards (to be developed as part of the FWS management plan). DOE-RL will seek concurrence from the FWS Project Leader for the Hanford Site regarding any new grants of easements, licenses or permits to third parties on the ALE lands.
 - 5.3 Attachments 2, 3, 4 and 5 of the Permit shall be updated at least annually.
 - 5.4 DOE-RL, through its Contractor(s), is responsible for providing use of, and making available, the existing and future developed Hanford Site support services, including the infrastructure, the electric power supply, telecommunications support, records and data from past, present, and future ALE programs, and other needed site services for the ALE.
 - 5.5 Until FWS has developed its own approved management plan and has upgraded its own fire protection capabilities for the ALE, the appropriate DOE RL POC, as identified in Attachment 4 of the Permit, is responsible for providing FWS fire protection, including initial attack and incident management, -for ALE structures and wildlands, on a cost reimbursable basis from FWS.
 - 5.6 For those buildings and facilities listed in Attachment 5 of the Permit, not identified as needed by DOE-RL and not identified as wanted by FWS and its authorized representatives (Section 4.8), DOE-RL is responsible for destruction and disposal of the respective buildings and facilities and site restoration in coordination with FWS.

- 5.7 DOE-RL and its Contractors will keep. the FWS Project Leader for the Hanford Site informed regarding access and use needs for DOE-RL or DOE-RL approved activities. DOE-RL will continue to maintain the responsibility for providing the security lock and keys for ALE.
- 5.8 DOE-RL shall be responsible for notifying the FWS Hanford Site Project Leader of the discovery of any hazardous (or dangerous), toxic.or radioactive wastes or other substances of concern, or the release or threatened release of such substances on, or affecting, the ALE as soon as reasonably possible following discovery.
- 5.9 DOE-RL shall notify FWS Hanford Site Project Leader of- any accident, injuries, fires, material releases, thefts, or other unusual occurrences on the ALE or which might affect the ALE as soon as reasonably possible following discovery.
- 5.10 Throughout the effective dates of the Permit, DOE-RL will continue to support tribal -participation in decision making for the ALE through the existing grants with DOE-RL, subject to the availability of funds.
- 5.11 DOE-RL is responsible for assuring that appropriate resources are available for FWS coordination required in Section 4.3.

6.0 PROGRAM FUNDING:

- 6.1 DOE-RL and FWS and its authorized representatives will fund, on a basis proportionate to their respective use, continuing maintenance of ALE buildings and facilities.
- 6.2 FWS and/or its authorized representatives will fund any cultural or environmental mitigation required to allow construction and/or operations by the FWS and/or its authorized representatives on the ALE.
- 6.3 DOE-RL and FWS will work together to determine the needs for improvements and facilities to accommodate increased tribal and public access consistent with the management plan. DOE-RL and FWS will work together to seek necessary funding for these capital improvements. FWS will provide its own funding for improvements for FWS access needs.
- 6.4 Any requirement for the payment or obligation of funds by FWS or DOE-RL established by the terms of this MOU shall be subject to the availability of appropriated funds. .

11.0 OTHER PROVISIONS: Nothing in this MOU will be deemed to establish any right nor provide a basis for any action, either legal or equitable, by any person or class of persons challenging a government action or a failure to act.

For the U.S. Department of Energy

For the U.S. Fish and Wildlife Service

Signature

Signature

Name

Name

Title

Title

Date

Date